

Message Text

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ACTION L-03

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FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC IMMEDIATE 5411

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DEA FOR EOIL

E. O# 11652: N/A

TAGS:SNAR, PFOR, AR

SUBJ: EXTRADITION - YOLANDA SARMIENTO

SUMMARY: THE SARMIENTO CASE IS NOW UP ON APPEAL. ONE JUDGE HAS RULED THAT SARMIENTO SHOULD NOT BE EXTRADITED SINCE THE REQUESTING DOCUMENTS WERE NOT CERTIFIED. ACTION REQUESTED: THAT CERTIFIED DOCUMENTS BE FORWARDED IMMEDIATELY.

1. THE EMBASSY HAS LEARNED THAT THE CASE AGAINST YOLANDA SARMIENTO DIAZ IS NOW UP ON A SECOND APPEAL;; THE JUDGE IN THE FIRST INSTANCE RULED AGAINST EXTRADITION BUT A REVIEW PANEL UPHELD THE EXTRADITION REQUEST. A LEGAL MANEUVER BY SARMIENTO'S ATTORNEYS FORCED RECONSIDERATION OF THE MATTER, BUT BEFORE A NEW PANEL OF JUDGES, NONE OF WHOM HAVE HAD CRIMINAL OR EXTRADITION EXPERIENCE.

2. THERE ARE A NUMBER OF POINTS OF LAW INVOLVED. ONE OF THE MOST BASIC IS THAT THE REQUEST FOR EXTRADITION HAD NOT, AS REQUIRED BY TREATY ARTICLE II, PARAGRAPH 5(A) BEEN "CERTIFIED BY THE PRINCIPAL DIPLOMATIC OR CONSULAR OFFICER OF THE REPUBLIC OF ARGENTINA IN THE UNITED STATES". (READ THE GOA AMBASSADOR OR THE GOA CONSUL GENERAL IN BALTIMORE.)

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3. THE EMBASSY'S TECHNICAL ADVISORS ON SUCH MATTERS HAVE

RECOMMENDED THAT (A) WE ATTEMPT TO GET CERTIFIED DOCUMENTS IN THE HANDS OF THE COURTS, AND (B) WE ASK THE MINISTRY OF FOREIGN RELATIONS TO REQUEST THE COURT TO PLACE THE CASE IN ABEYANCE UNTIL SUCH TIME AS THE DOCUMENTS ARRIVE. THE MFA HAS AGREED TO THIS PROCEDURE, ALTHOUGH IT (CORRECTLY) STATES THAT IT CANNOT SAY WHETHER THE COURT WILL AGREE. THE EMBASSY IS PREPARING A NOTE ALONG THESE LINES, WHICH WILL ALSO REQUEST THAT AN EMBASSY OFFICER BE ALLOWED TO APPEAR BEFORE THE COURTS (SEE BA 1171).

ACTION REQUESTED:

4. THE COURT SYSTEM HERE IS UNDERGOING A DE FACTO SHIFT IN PERSONNEL AND THE SECOND REVIEW IS AN UNUSUAL, BUT LEGAL DEVICE. OUR TECHNICAL ADVISORS CANNOT PREDICT WHEN THE CASE WILL BE REVIEWED. THEY HAZARD THAT IT WILL NOT BE BEFORE FEB 26, BUT THAT IT COULD BE ANY TIME AFTER THAT. THEREFORE, TO DECREASE THE POSSIBILITY OF DEFEAT IN THIS MATTER, WASHINGTON AGENCIES CONCERNED ARE REQUESTED TO PROVIDE A DUPLICATE SET OF DOCUMENTS, CERTIFIED IN ACCORDANCE WITH ARTICLE 11, PARA 5(A) NO LATER THAN COB, FEB 27. WE WILL THEN ATTEMPT TO REPLACE THE DEFECTIVE DOCUMENTS WITH VALID ONES. ADVISE.

HILL

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